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ALASKA MARINE CONSERVATION COUNCIL

BEFORE THE U.S. SENATE SUBCOMMITTEE ON OCEANS AND FISHERIES

FIELD HEARING ON CONSERVATION AND MANAGEMENT OF FISHERIES IN THE NORTH PACIFIC AND ON THE REAUTHORIZATION OF THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT

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Thank you for the opportunity to testify today. For the record, my name is Paul Seaton. I am a commercial fisherman and board member of the Alaska Marine Conservation Council (AMCC). AMCC is a membership-based community organization comprised of Alaskans, many of whom live and work in small communities along Alaska's coastline and draw their living and culture from the sea.

AMCC's members include commercial and sport fishermen, biologists, subsistence harvesters, small business owners and conservationists dedicated to protecting the health and diversity of Alaska's ocean and coastal resources. We work collaboratively with local people and community organizations to reduce bycatch, protect habitat, and prevent overfishing to sustain Alaska's fisheries and a healthy marine ecosystem into the future.

Today, I will be talking about three major points:

1. The 1996 conservation mandates in the Magnuson-Stevens Fisheries Conservation and Management Act (Magnuson-Stevens Act) are excellent, but implementation has been slow and inadequate. The National Marine Fisheries Service (NMFS) must begin to aggressively implement the law. AMCC recommends clarification and strengthening of the Act in the next reauthorization.
2. Congress must maintain and increase strong protection for the essential fish habitat provisions in the law.
3. The intent of the Magnuson-Stevens Act to enable progress in the conservation of the nation's fisheries is being slowed, and in some cases circumvented, by allocation decisions.

On behalf of the Alaska Marine Conservation Council, I want to thank the committee and especially Alaska's Senator Ted Stevens, for the precedent-setting conservation language that Congress made law through passage in 1996 of the Magnuson-Stevens Fishery Management and Conservation Act. Our members have seen some isolated, but positive changes in management of the North Pacific fisheries as a result of the new law. Examples of progress include the North Pacific Fishery Management Council's (North Pacific Council) actions to eliminate bottom trawl gear for Bering Sea pollock, establish rebuilding plans for overfished Bering Sea crab stocks, and reduce Chinook salmon bycatch in specific areas in the Bering Sea.

AMCC is proud to have played a role in these positive conservation actions, but we recognize that they represent only the beginning of what the Magnuson-Stevens Act was designed to achieve. Unfortunately, implementation of the law has been hindered by the failure

of NMFS to prioritize work on it. Three years after its passage, what has changed in fisheries management as compared to before the reauthorization? The law called for a different way of doing business, yet fishery managers have only incremental changes to show for it.

The most important work ahead for NMFS and the North Pacific Council is the identification and protection of essential fish habitat from adverse impacts caused by fishing practices. The Magnuson-Stevens Act language on essential fish habitat provides strong direction and the requirements are well-reasoned and sound. As described above, the problem is not in the language of the law, but in its implementation. We urge Congress to maintain the current habitat provisions and to ensure fishery managers act aggressively to protect the diversity and productivity of sensitive marine habitats.

The North Pacific is home to some of the largest fisheries remaining in the world, and 50% of our nation's domestic fishery landings. (Fisheries of the United States, National Marine Fisheries Service, 1998.) The North Pacific region appears prosperous compared to other parts of the U.S., such as the North Atlantic, where overfishing problems have reached crisis proportions. However, our region is not free of overfishing examples. In addition, the North Pacific has excessively high bycatch as a consequence of industrial scale operations and scientists are beginning to document habitat alteration occurring on our fishing grounds. The North Pacific ecosystem is also experiencing dramatic ecological changes: scientists and local people have witnessed accelerated declines in regional populations of fish, shellfish, marine mammals and seabird species. In light of these changes, the National Research Council stated, " It seems extremely unlikely that the productivity of the Bering Sea ecosystem can sustain current rates of human exploitation...." (National Research Council, Bering Sea Ecosystem, 1996, p 4.)

To make our fisheries truly sustainable, the 1996 conservation provisions to minimize bycatch, protect habitat and prevent overfishing must be fully implemented. It is time to activate a new precautionary approach to fisheries management that accounts for the effects of fisheries on the ecosystem and reduces the risk that fisheries are contributing to a reduction in productivity, biological diversity or sensitive habitat. Such an approach is needed to guide fishery managers when there is inadequate scientific data on which to base decisions. (Paul Dayton, Reversal of the Burden of Proof in Fisheries Management, *Science*, Feb. 6, 1998, p. 821-822.)

Since the Magnuson-Stevens Act passed, NMFS has been largely focused on allocation issues and regulations, often at the expense of conservation issues. Congress specifically gave NMFS the deadline of October, 1998 to implement the conservation requirements. The deadline came and went with only part of the job done. Then, with the passage of the American Fisheries Act in 1998, NMFS began devoting substantial resources to its implementation. NMFS has put the marine conservation provisions of the Magnuson-Stevens Act on the back burner. Only in the last month has NMFS published proposed rules for bycatch measures that were approved by the North Pacific Council one or more years ago. AMCC has been extremely frustrated by the pace of implementation.

AMCC recognizes that a pivotal issue in this upcoming reauthorization of the Magnuson-Stevens Act is whether to lift the moratorium on Individual Fishing Quotas (IFQs). In light of efforts to address the problem of overcapitalization in the fisheries since the Act's passage in 1996, AMCC believes a broader discussion needs to take place. We agree overcapitalization is a serious problem, but we argue that any restructuring of the management system must equally address conservation goals. AMCC strongly urges Congress to adopt conservation standards that will apply to any limited access program, whether the program takes the form of IFQs, fishing cooperatives or another management structure. The standards should achieve clear and explicit conservation goals and support continued participation in the fisheries by independent, community-based fishermen. The standards should be defined before any new limited access programs are created and before the IFQ moratorium is lifted.

AMCC members and Board of Directors have a vision of Alaska's fisheries being a place where a young person can enter a fishery and make a living through hard work and sweat equity. Our vision includes the opportunity for a long career in the fishery, which rewards clean fishing and habitat-friendly practices, and is managed for conservation so as to sustain the fishery and the ecosystem needed to support productive fisheries. Economic efficiency will be defined as managing fisheries to provide an economic base for coastal communities, and favoring a large number of fishermen who harvest fish slowly, rather than favoring a few vessels that harvest as quickly as possible. Alaska Native villages, where people harvest fish and marine resources for subsistence, will thrive from an abundant supply of traditional foods from the sea. This vision depends upon a healthy marine ecosystem and precautionary management of the fisheries. The language of the Magnuson-Stevens Act and how the law is implemented play a tremendously important role in the realization of this vision.

1. Bycatch

Although improvements have been made in selected fisheries, bycatch remains a major problem in the North Pacific. At least 1,000 different species of fish and other sea life are hauled aboard and thrown back dead or dying because they are the wrong species, the wrong sex or the wrong size. Each year between 1993 and 1997—the most recent data available—this bycatch averaged approximately 680 million pounds of groundfish, 15,700,000 pounds of halibut, over 2,000,000 pounds of herring, 61,500 Chinook salmon, 135,000 other salmon, and millions of crabs. (Pacific Associates, 1995 & 1998.)

There are no estimates for those fish and seafloor species of non-commercial value that are wasted as bycatch, and there is no measure of the impact of the total bycatch on the ecosystem. There are also sectors of the fishing industry that are not observed, which compromises the reliability of data.

One tool to fix this problem is the North Pacific observer program, the only one of its kind in the country. Although the observer program has been of great assistance in gathering

data to quantify the bycatch in the North Pacific, this program is in need of improvement. The current program and the integrity of data it generates are at risk because of an inequitable funding mechanism and the limitations in how observers are distributed across the fisheries. In order to function as it should, AMCC recommends a mandatory fee-based system in which all fishermen would pay according to the average value of the fish they catch, including both target species and bycatch. This approach would build in a bycatch reduction incentive by encouraging fishermen to retain a greater proportion of the fish caught, process it into the highest value product possible and thereby generate value from more of the total catch. Waste would truly become a "cost of doing business" under this system. AMCC recommends that Congress institute a nationwide observer program that is supported through a fee-based system. In any observer program, AMCC recommends that managers be given the flexibility to assign observers where they are most needed to collect the data for conservation objectives.

In 1998, NMFS activated a program requiring all fisheries to retain cod and pollock bycatch. A large portion of these discards were juvenile fish, too small for processing machinery. The stated purpose of the program (known as Improved Retention/Improved Utilization or IR/IU) was to "provide an incentive for fishermen to avoid unwanted catch, increase utilization of fish that are taken, and thus, reduce discards of whole fish." (62 Fed. Reg. 34430, 1997.) Bycatch data shows a significant reduction in the amount of economic discards compared to previous years as a result of this program. However, AMCC urges Congress to look more closely at the results to see if vessels are actually avoiding the catch of unwanted fish, or retaining them for production of fishmeal and other new products. While some vessels are employing methods to move away from schools of small fish, other vessels most likely are not. There has been no method to validate whether avoidance is occurring, casting doubt on the program's effectiveness as a true bycatch reduction measure.

One method being used to reduce catch of small fish is large mesh nets that allow small fish to escape. Recent scientific research has shown that the fish escaping through these nets suffer a 46-84% mortality rate from injury during escapement. (Alaska Fisheries Development Foundation, Surviving the Great Escape, Lodestar, April 1999.) This new information is of major concern. While the statistics show improvement in bycatch, the problem may just be masked and there may, in fact, be a sizable amount of indirect mortality that is now going uncounted. From a conservation standpoint, this situation would be worse than discarding a known quantity of fish. A careful monitoring program to measure the effects of the IR/IU program is the only way to determine the level of actual bycatch avoidance. Congress, the North Pacific Council and NMFS need to address this with open eyes and careful scrutiny to make bycatch reduction efforts meaningful.

> The Magnuson-Stevens Act states that it is the policy of Congress to assure that the national fishery conservation and management program...*considers the effects of fishing on immature fish* and encourages development of practical measures that minimize bycatch and avoid unnecessary waste of fish.... (§ 2 (c)(3))

The IR/IU program is the primary bycatch reduction measure instituted by the North Pacific Council to address economic discards. AMCC does not consider this to be a true reduction

of bycatch unless it is clear that fishing vessels are successfully avoiding the catch of juvenile fish and minimizing mortality of fish that are not retained, as stipulated in the Magnuson-Stevens Act.

2. Overfishing

Since the Magnuson-Stevens Act passed in 1996, the number of species considered to be overfished has steadily increased nationwide. NMFS reported that 98 species are overfished, an increase from 90 overfished species in 1998. (Report to Congress: Status of Fisheries of the United States, National Marine Fisheries Service, October 1999.)

In the North Pacific, no groundfish stocks are currently declared overfished. However, NMFS has failed to implement a key element in the overfishing regulations: the establishment of minimum stock size thresholds for each stock. For this reason, fishery managers do not know whether or not the North Pacific has any overfished stocks as defined in the 1996 Magnuson-Stevens Act overfishing provisions. Although the North Pacific overfishing definition started out being far better than other regions of the country, adding minimum stock size thresholds is an important conservation addition.

Fish populations rise and fall in natural ranges of abundance but the minimum stock size threshold mechanism prevents a fishery from driving a stock below a productive level, or exacerbating a natural downward trend**.** The Aleutian Islands pollock fishery, for example, has undergone serial overfishing: each year the fleet has to travel farther west to find enough pollock. (Ecosystem-Based Management in the Bering Sea: Proceedings, Center for Marine Conservation, 1998, p 46-47.) Fortunately, NMFS closed this fishery in 1999 and 2000 in an effort to allow the stock to recover. Minimum stock size thresholds would help prevent fishery closures by guiding management toward conservation measures before dire action is needed.

Over the last several years, the North Pacific Council and the State of Alaska *did* assign minimum stock size thresholds to Bering Sea crab stocks. As a result, major crab fisheries (Bairdi Tanner, opilio or snow crab and St. Matthew blue king crab) were found to be overfished. So far, only the Bairdi Tanner crab rebuilding plan has been developed and approved by the North Pacific Council. AMCC is concerned that, despite the rebuilding plan's conservative harvest strategy, the plan is insufficient because 1) it does not include measures to reduce crab bycatch in groundfish fisheries, and 2) it does not include new habitat conservation measures beyond what has been in place prior to the stock's overfished status. AMCC believes more aggressive action is needed to improve the likelihood that rebuilding can occur within a 10-year timeframe.

3. Managers are Operating with a Dangerous Lack of Information

Scientists and the public are increasingly concerned with the great lack of information about the effect of large-scale fisheries on the ecosystem. Indeed current methods used to set annual catch limits do not take into account these effects and, in the North Pacific, there is little data on the habitat requirements of any of the managed fish species, not to mention those species in

the food web that are not monitored or studied. (Ecosystem Considerations for 1999 and 2000, NPFMC.)

Nationwide scientists do not know if the majority of fish stocks are healthy, increasing, declining or overfished. According to NMFS the status of 649 stocks—75% of those assessed— is "unknown." In the North Pacific, 70% are of unknown status. (Report to Congress: Status of Fisheries of the United States, National Marine Fisheries Service, October 1999.)

Fishery managers know little about recruitment and population dynamics, basic biology of both non-commercial and commercially valuable species, ecology of marine life communities, the habitat needs of living marine resources, predator-prey relationships, and year-to-year variability in ocean conditions. Fishery managers do not know how high volume fisheries affect declining stocks during periods of natural downward fluctuation.

The combination of all of these sources of missing information and uncertainty makes it even more difficult to measure the effect of fisheries on the ecosystem as a whole. Despite these gaps in information, management decisions are being made routinely. While scientists and managers will probably never have complete, quantifiable knowledge of how the fisheries operate in an ecosystem context, managers do have the responsibility to account for uncertainty and lack of knowledge in their decision-making.

In their 1998 report to Congress, the Ecosystem Principles Advisory Panel described the importance of considering ecosystem effects when making fisheries management decisions.

> This issue (overfishing and lack of knowledge) is urgent because the current harvest levels are high and because new fisheries will rise, be fully capitalized and reach unsustainable levels of catch before the management process can establish effective constraints... In many cases, the ecological correlates of changing fish populations could have served as evidence of intensified exploitation effects. Frequently, the advent of a fishery and implementation of catch restrictions have unknown ecological consequences. Too often, we learn about ecological consequences after the fact, because we do not consider them in our decision-making, nor do we monitor ecosystem changes due to increased exploitation. (Ecosystem-Based Fishery Management, A Report to Congress by the Ecosystem Principles Advisory Panel, November 1998, p. 9.)

The Panel went on to recommend that Congress enact legislation in the next reauthorization of the Magnuson-Stevens Act to require Fisheries Ecosystem Plans, a proposal which AMCC fully supports.

Use of the Precautionary Principle is an internationally accepted strategy for coming to terms with scientific uncertainty in a resource management.. Elements of the Precautionary Principle include:

1. Uncertainty is unavoidable in sustainability issues;
2. Uncertainty as to the severity of the environmental impacts resulting from a development decision or an ongoing human activity should not be an excuse to avoid or delay environmental protection measures;
3. The principle recommends an anticipatory or preventative approach, rather than a defensive one which simply reacts to the environmental damage when it becomes apparent; and
4. The onus of proof shifts away from the environment or those advocating its protection, towards those proposing an action that might harm it. (Dovers, S.R. and J.W. Handmer, Ignorance, the precautionary principle, and sustainability, Royal Swedish Academy of Sciences, 1995, *Ambion* 24 (2):92-97.)

Considering the lack of information about the majority of species and ecosystem relationships in the North Pacific, employing the Precautionary Principle in an ecosystem context is a wise and necessary approach to management.

Alaska Marine Conservation Council recommends that Congress maintain the Magnuson-Stevens Act provisions to identify and protect essential fish habitat, and to strengthen them further to ensure effective and timely action is taken.

In the North Pacific, essential fish habitat implementation should focus on protecting Alaska's ocean habitat from the adverse effects of fishing practices. The North Pacific Council is beginning a process to define, identify and consider protection for habitat areas of particular concern (HAPC). HAPC designation is critical to attaining the intent of the essential fish habitat requirements in the law. AMCC is confident that such an approach focuses fishery management actions on key geographic areas. A successful outcome for conservation would encompass protection of an adequate representation and suitable portions of sensitive or rare habitats in Alaskan waters. By establishing a mosaic of habitat areas protected from the adverse effects of fishing, managers can have greater confidence that the functions of those habitats in fisheries production will be sustained.

In 1998 AMCC submitted several proposals to the North Pacific Council to identify and protect habitat areas of particular concern. The Council will consider them in 2000. In order to craft an effective habitat conservation regime, fishery managers must commit to focused and expeditious action on these and other proposals. The alternative is a potential unraveling of ecosystem components created and supported by important habitats and risking the well-being of diverse fisheries, their productivity and other species in the marine food web. The risk of losing habitat and creating barren areas in Alaska's marine waters due to sluggish management response is unacceptable. While the North Pacific region contains certain habitat protection measures, there is still a lot of work to be done to fulfill the Magnuson-Stevens Act mandate.

We appreciate the 1996 essential fish habitat requirements as a good conservation tool and we recommend some additions to strengthen the law. AMCC urges Congress to require the councils and NMFS to evaluate the effectiveness of habitat protection measures and report back to Congress.

The failure of NMFS and the North Pacific Council to move more quickly to identify and protect essential fish habitat is made even more apparent in comparison with recent actions at the state level in Alaska. For example, the Alaska Board of Fisheries is providing leadership in habitat protection in state waters. In March of 1999, the Board voted to close nearshore waters around Kodiak to bottom trawling. Their action was in response to the failure of the overfished Kodiak red king crab population to recover after closure of the fishery in 1984. Even after sixteen years of no fishing, the Kodiak red king crab population is estimated to be at 200,000 animals today, compared to an estimated population of 30 million in the 1960s. The Board recognized that habitat protection is a critical component of rebuilding the crab population. As Board of Fish member Larry Engel stated during the deliberations, "Without habitat, we have no fish." The State of Alaska is leading the way in marine habitat protection. AMCC urges NMFS and the North Pacific Council to follow suit by advancing a thorough habitat conservation regime in federal waters, as required by the Magnuson Stevens Act.

A key feature of the 1996 reauthorization was the moratorium on new IFQ programs. When Congress deliberates over whether or not to lift the moratorium in the upcoming reauthorization we recommend looking broadly at all limited access strategies. AMCC strongly urges Congress to adopt conservation standards for any limited access program before the moratorium is lifted and before any other new programs are allowed to be developed by regional councils. Some conservation improvement may come from limited access by virtue of slowing down the race for fish and improving opportunities for more careful fishing practices. However, Congress should make conservation achievements a required element of limited access fisheries and there should be deliberate mechanisms that will ensure conservation goals are met. We also strongly urge Congress to stipulate that, if access is limited, viable community-based opportunities to participate in fisheries are included.

Standards for limited access programs, whether they are IFQs, fishing cooperatives or some other management structure should:

1. Achieve clear and explicit conservation goals including:
    - No rewards that institutionalize past bycatch–intensive fishing practices;
    - Compliance with congressional mandates to minimize bycatch, identify and protect habitat, and prevent or end overfishing;
    - Application of the Precautionary Principle for ecosystem-based fishery management.

2. Ensure community-based participation by independent fishermen in fisheries through measures such as:

- Prohibiting access to fisheries from becoming a compensable property right;
- Setting aside portions of the fishery for small vessel or entry level fishermen;
- Prohibiting consolidation of access to fisheries that reduces participation by independent fishermen.

Despite the many positive changes to the law in 1996, more improvement is needed. Even with the strong language of the Magnuson-Stevens Act, the management of our nation's fisheries has not shifted to a new and focused priority on sustainability. Fishery managers continue to place short-term economic considerations before long-term conservation goals. Instead of a flood of rebuilding plans, a reversal in the decline of fish stocks, and plans to protect habitat for continued productive and diverse fisheries, we are seeing a continued downward spiral of fish populations across the country and fisheries and fishing communities pushed to the brink of ruin.

AMCC asks Congress to continue providing strong leadership in fisheries management, and to clearly establish conservation as the top priority of the Act. An economically sound fishery must be built around long-term sustainable goals. Congress must give unmistakable direction to NMFS and the regional councils to carry out the intent and spirit of the law. To that end, we ask that Congress amend the Magnuson-Stevens Act in the following areas.

1. ***Require councils to develop a Fisheries Ecosystem Plan for the major ecosystems under their jurisdictions, as recommended by the National Research Council.***

§ 305. OTHER REQUIREMENTS AND AUTHORITY

FISHERIES ECOSYSTEM PLANS.

Each council shall, within 18 months from the date of enactment of this Act, prepare and submit to the Secretary a Fisheries Ecosystem Plan (FEP) for the major marine ecosystem or ecosystems within its jurisdiction. In the case where significant portions of ecosystems are found in the jurisdictions of adjacent councils, joint FEPs shall be prepared. The process for preparing and developing FEPs shall be consistent with the fishery management plan process outlined in Section 302.

Each fisheries ecosystem plan shall

contain information on the structure and function of the ecosystem in which fishing activities occur, including the geographic extent of the ecosystem and its biological, physical and chemical dynamics, a description of the significant food web including key predator-prey relationships, and the habitat needs of different life stages of species that make up the significant food web;

establish indices of ecosystem health and integrity;

describe how the information on ecosystem structure and function is to be incorporated into the context of fishery-specific management plans;

include specific recommendations for implementing ecosystem protections in fishery management plans; and,

outline a long-term monitoring program to evaluate fishery-dependent and fishery-independent changes in the ecosystem.

No later than 6 months from the date of enactment, the Secretary shall prepare guidelines for FEP development, in conjunction with the councils and other scientific, fisheries and conservation interests as appropriate, and provide them to the councils to facilitate development and implementation of the required FEPs within the prescribed time period.

The Secretary shall review each fisheries ecosystem plan according to the guidelines prepared pursuant to paragraph (3) and approve or disapprove FEPs, in whole or in part, according to the process described in section 304. If the Secretary disapproves or partially approves a plan, the council shall revise and re-submit the plan within 9 months of its disapproval.

If, within the 18 month period beginning on the date of enactment of this Act, a council fails to develop and submit to the Secretary a Fisheries Ecosystem Plan as required under this section, the Secretary shall prepare a plan for that ecosystem within 9 months.

Within no more than 24 months after approval of a FEP, each council shall submit to the Secretary fishery management plans or plan amendments required to make all FMPs under its jurisdiction consistent with the principles, goals, policies and recommendations of the relevant FEP.

If, within the 24 month period after approval of a FEP, a council fails to submit adequate amendments, the Secretary shall prepare such amendments within 9 months.

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2. Require councils to consider the ecosystem impacts of amendments to Fishery Management Plans.

§ 303. CONTENTS OF FISHERY MANAGEMENT PLANS

REQUIRED PROVISIONS.— Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

contain the conservation and management measures, applicable to foreign fishing and fishing vessels of the United States, which are—

necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery and the ecosystem within which the fishery functions;

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(15) include a fishery impact statement for the plan or amendment which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on other species, including key predator-prey interactions, in the ecosystem, such assessment to be used to determine consistency with the relevant Fisheries Ecosystem Plan as required under Section 305 (-)(-).

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3. Replace purpose and mission of the Act with conservation oriented goals.

§ 2. FINDINGS, PURPOSES, AND POLICY

(b) PURPOSES.— It is therefore declared to be the purposes of the Congress in the Act—

(6) ~~to encourage the development by the United States fishing industry of fisheries which are currently underutilized or not utilized by United States fishermen, including bottom fish off Alaska, and to that end, to ensure that optimum yield determinations promote such development in a non-wasteful manner;~~

(6) to ensure that U.S. fisheries management takes into consideration the ecosystem needs of target species and the impacts of fishing on other species in the ecosystem;

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(8) to promote management decisions incorporating the precautionary approach, especially when the effects of fishing are unknown or uncertain, in order to maintain ecosystem health and sustainability.

(c) POLICY.— It is further declared the policy of the Congress in this Act—

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(3) to assure that the national fishery conservation and management program utilizes, and is based upon, the best scientific information available; involves, and is responsive to the needs of, interested and affected states and citizens; incorporates and applies ecosystem principles; considers how fishing affects predator-prey and other important ecological relationships within marine ecosystems; ~~efficiency~~; draws upon Federal, State, and academic capabilities in carrying out research, administration, management, and enforcement; considers the effects of fishing on immature fish and encourages development of practical measures that minimize bycatch and avoid unnecessary waste of fish; and is workable and effective;

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4. Add a national standard requiring the precautionary approach.

§ 301. NATIONAL STANDARDS FOR FISHERY CONSERVATION AND MANAGEMENT

IN GENERAL.— Any fishery management plan prepared, and any regulation promulgated to implement any such plan, pursuant to this title shall be consistent with the following national standards for fishery conservation and management.

(11) Conservation and management measures shall (A) when information is uncertain, unreliable or inadequate, reduce risks by setting precautionary reference points for each stock of fish and the action to be taken should those thresholds be approached or exceeded; (B) take into account the direct and indirect impacts of fishing on other species and their habitats and the conservation of those species as important components of the ecosystem; and (C) allow the expansion of existing fisheries or the development of new fisheries only after measures are in place to prevent adverse impacts on the stocks, associated species or the ecosystem.

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5. Change the definition of optimum yield (OY) and overfishing in the Act to include ecosystem impacts.

§ 3. DEFINITIONS

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(28) The term "optimum," with respect to the yield from a fishery, means the amount of fish which—

will provide the greatest overall benefit to the Nation, particularly with respect to protection of marine ecosystems, food production, and recreational opportunities ~~and taking into account the protection of marine ecosystems~~;

is prescribed as such on the basis of the maximum sustainable yield from the fishery, as reduced by any relevant economic, social, or ecological factors, including predator-prey and other important ecological relationships within marine ecosystems.

(29) The terms "overfishing" and "overfished" mean a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis, or, through direct or indirect impacts on other species, jeopardizes the ecological integrity and sustainability of marine ecosystems;

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6. Appropriate funds for application of ecosystem principles to fisheries research and management.

No specific language recommendations.

1. ***Congress should require Fishery Management Plans to include a timeline and specific goals for bycatch reduction and incentives for fishing practices that avoid bycatch or result in lower levels of bycatch mortality.***

§ 303. CONTENTS OF FISHERY MANAGEMENT PLANS

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REQUIRED PROVISIONS.— Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

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(11) establish and implement an accurate and reliable ~~a~~ standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery within one year of the date of enactment of this Act, specify objective and measurable bycatch targets that minimize bycatch, and specify a timetable, not to exceed five years, for achieving those targets through ~~include~~ conservation and management measures that, ~~to the extent practicable, and~~ in the following priority—

~~minimize~~ avoid bycatch; and

minimize the mortality of bycatch which cannot be avoided;

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(16) include conservation and management measures that provide catch incentives for participants within and among gear categories to employ fishing practices that avoid bycatch or result in lower levels of the mortality of bycatch which cannot be avoided;

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2. ***The current language regarding Individual Bycatch Quotas (IBQs) may allow the institutionalization of bycatch unless the law is changed to prohibit the transfer of IBQs.***

§ 303. CONTENTS OF FISHERY MANAGEMENT PLANS

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REQUIRED PROVISIONS.— Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

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(17) in the case of an FMP or FMP amendment that allocates bycatch to individual fishing vessels, or to groups of fishing vessels within the fishery, specify that such allocations shall not be transferable, shall be made on an annual basis only, shall include measurable and objective bycatch minimization goals, targets and schedules, and shall be reviewed periodically.

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3. Change the North Pacific section of the law to require the North Pacific Council to submit a plan to lower the total amount of bycatch, not just economic discards.

§ 313. NORTH PACIFIC FISHERIES CONSERVATION

(f) BYCATCH REDUCTION.— In implementing section 303(a)(11) and this section, the North Pacific Council shall submit conservation and management measures to lower, on an annual basis for a period of not less than four years, the total amount of bycatch ~~economic discards~~ occurring in the fisheries under its jurisdiction.

- ***Fund the North Pacific observer program with a user fee based on value and applied to all fish landed and sold in the U.S.***

§ 313. NORTH PACIFIC FISHERIES CONSERVATION

(a) IN GENERAL.— The North Pacific Council ~~may~~ shall prepare, in consultation with the Secretary, a fisheries research plan for all fisheries under the Council's jurisdiction except salmon fisheries which—

(1) requires that observers be stationed on fishing vessels engaged in the catching, taking, or harvesting of fish and on United States fish processors fishing for or processing species under the jurisdiction of the Council, including the North Pacific halibut industry, for the purpose of collecting data necessary for the conservation, management, and scientific understanding of any fisheries under the Council's jurisdiction; and

establishes a system of fees to pay for the costs of implementing the plan.

§ 3. DEFINITIONS

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The term "essential fish habitat" means those waters and substrate necessary to fish, whether managed or not, for spawning, breeding, feeding or growth to maturing.

§ 303. CONTENTS OF FISHERY MANAGEMENT PLANS
REQUIRED PROVISIONS

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(7) describe and identify essential fish habitat ~~for the~~ , giving priority to those fish species that are subject to the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), ~~minimize to the extent practicable adverse effects on such habitat caused by fishing~~, and –

analyze the impacts of fishing on essential fish habitat;

minimize any adverse impacts on essential fish habitat from fishing;

close an area to a fishing gear or practice if such fishing gear or practice may adversely affect essential fish habitat unless the Council determines, based on the best scientific information available, that a closure is not necessary to protect such habitat; and

identify other actions to encourage the conservation and enhancement of such habitats;

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§ 304. ACTION BY THE SECRETARY

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FINDING OF MINIMAL ADVERSE IMPACT. –No person or vessel may employ fishing gear or engage in a fishery;

in an area closed to that fishing gear or fishery unless the Secretary, after notice and opportunity for public comment, finds that the fishing gear or fishery will have a minimal adverse impact on essential fish habitat and minimal bycatch of non-target species; or

not currently used in the prosecution of the fishery, or included on the list published pursuant to section 305(a)(1), unless the Secretary, after notice and opportunity for public comment, finds that the fishing gear or fishery will have a minimal adverse impact on essential fish habitat and minimal bycatch of non-target species.